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OFFICE OF PETITIONS

In re Application of	:	
Christian Dampirou, et al	:	
Application No. 09/469,530	:	ON PETITION
Filed: December 22, 1999	:	
Attorney Docket No. CEI-075	:	

This is a decision on the petition under 37 CFR 1.137(b) filed November 12, 2004, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for failure to timely reply to the final Office action mailed May 6, 2004. The present petition included, inter alia, a Notice of Appeal.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the \$490 extension of time fee submitted with the petition is unnecessary and will be credited to counsel's deposit account as authorized.

The 2-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

This application is being referred to Technology Center AU 1617.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

A handwritten signature in black ink, appearing to read "Sherry D. Brinkley". The signature is written in a cursive style with a long vertical line extending downwards from the end.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination/Policy